

PALM BEACH COUNTY
BOARD of COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: 12/19/06 Consent Regular
 Ordinance Public Hearing

Department Submitted by: Information Systems Services
Submitted for: Information Systems Services

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Fifth Amendment to Statement of Work in contract with CGI-AMS (formerly named American Management Systems, Inc.) (R2002-1782), to extend the ending date of this contract from December 31, 2006 to December 31, 2007, at no additional cost to the County.

Summary: The Fifth Amendment is for a contract extension to allow additional time for completion of the installation of the Vendor Self Service module. Countywide (PK)

Background and Justification: On October 2, 2002, the Board approved the migration of the County's Financial System from the mainframe-based LGFS version to the web-based Advantage System. The implementation and installation of the Vendor Self Service module is still pending due to a mutual decision of the County and the vendor. This contract extension date will provide time required for work on the Vendor Self Service module which is scheduled for completion next year.

Attachments:

1. Three original Amendment No. 5 documents
2. Copy of original Contract (Minutes pages 3264 – 3290 only) with Statement of Work and Amendments

Recommended by: Steve Bordelon 11-30-06
Department Director Date

Approved by: [Signature] 12/19/06
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact

Fiscal Years	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Capital Expenditures	\$0	0	0	0	0
Operating Costs	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Inc (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u>\$0</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>

Additional FTE Positions (Cumulative) 0 0 0 0 0

Is Item Included in Current Budget Yes No

Budget Account Number(s): Fund Dept. Unit
Object

B. Recommended Sources of Funds / Summary of Fiscal Impact

C. Department Fiscal Review: Robert Paul 11/27/06

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Administration Comments:

Elizabeth Blase 11/28/06
OFMB
11-20-06 CN 11/27/06

Dr. J. Jueault 12/7/06
Contract Administration
12/7/06

B. Legal Sufficiency:

Paul F. [Signature] 12/11/06
Assistant County Attorney

This amendment complies with our review requirements.

C: Other Department Review:

Department Director

**FIFTH AMENDMENT to
CONTRACT FOR PROFESSIONAL/ MAINTENANCE SERVICES AND
SOFTWARE LICENSE AGREEMENT between
PALM BEACH COUNTY and
AMERICAN MANAGEMENT SYSTEMS, INCORPORATED
(Contract No. R2002 1782)**

THIS FIFTH AMENDMENT is made and entered into this ____ day of _____, 2006, by and between Palm Beach County, a political subdivision of the State of Florida (the "COUNTY") and CGI-AMS Inc. (formerly named American Management Systems, Incorporated) (the "CONTRACTOR").

WHEREAS, the parties have entered into that certain Contract dated September 30, 2002, hereinafter referred to as the "CONTRACT", under which the CONTRACTOR is to provide professional and maintenance services and a software license for AMS Advantage[®] 3.x; and

WHEREAS, the CONTRACTOR and the COUNTY require additional time to complete the deliverables specified in the original contract, including vendor self-service and bar code module;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

1. Exhibit "A" - STATEMENT OF WORK, Section 1, Effective Date and Schedule of this STATEMENT OF WORK, delete the first two paragraphs, as previously amended, in their entirety and in lieu thereof insert the following:

This STATEMENT OF WORK is effective as of October 1, 2002 through December 31, 2007.

2. All other provisions of said CONTRACT, as amended, are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect.

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IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida, has made and executed this FIFTH AMENDMENT to the CONTRACT on behalf of the COUNTY and the CONTRACTOR has hereunto set its hand the day and year written above.

ATTEST:
SHARON BOCK, Clerk & Comptroller

PALM BEACH COUNTY, BOARD OF
COUNTY COMMISSIONERS
ADDIE L. GREENE, CHAIRPERSON

By: _____
Deputy Clerk


By: _____
Addie L. Greene, Chairperson

WITNESS:

CONTRACTOR:
CGI-AMS Inc.

Signature

Name (type or print)



Signature

J Paul Doty

Name (type or print)

(Corporate Seal)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By _____
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By Steve Bordelon
ISS Director

R2002 1782 OCT 01 2002

**CONTRACT
PROFESSIONAL/MAINTENANCE SERVICES AND PROPRIETARY SOFTWARE
LICENSE AGREEMENT**

This Contract is made as of September 30, 2002 (the "Effective Date"), by and between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of Commissioners, hereinafter referred to as the COUNTY, and American Management Systems, Incorporated, a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONTRACTOR, whose Federal I.D. number is 540856778.

In consideration of the mutual promises contained herein, the COUNTY and the CONTRACTOR agree as follows:

ARTICLE 1 - SERVICES

The CONTRACTOR'S responsibility under this Contract is to provide professional and maintenance services and a software license for AMS ADVANTAGE[®] 3.x, as more specifically set forth in EXHIBIT "A", EXHIBIT "B", and EXHIBIT "C", in the areas of:

- A. providing professional services to the COUNTY in migrating to AMS ADVANTAGE 3.x as modified by the CONTRACTOR in accordance with the STATEMENT OF WORK detailed in EXHIBIT "A";
- B. providing a Proprietary Software License to the COUNTY to use the computer software components and documentation for AMS ADVANTAGE 3.x in accordance with EXHIBIT "B"; and
- C. providing ongoing maintenance for AMS ADVANTAGE 3.x System and related modules and components in accordance with EXHIBIT "C".

The COUNTY'S representatives/liaisons during the overall performance of this Contract shall be Steve Bordelon, ISS Director, telephone no. (561) 355-2394 or designee and John W. Dame, Chief Deputy Clerk, Finance Department, at telephone number (561) 355-2959 or designee. An alternative COUNTY representative/liaison may be designated for each EXHIBIT included in this Contract.

The CONTRACTOR'S representative/liaison during the overall performance of this Contract shall be Larry Polster, telephone no (410) 757-2584.

ARTICLE 2 - SCHEDULE

The CONTRACTOR shall commence services as specified in the STATEMENT OF WORK detailed in EXHIBIT "A". The Proprietary Software License Agreement shall commence on the

Effective Date and shall continue in perpetuity as specified in EXHIBIT "B". Current and future maintenance services by the CONTRACTOR shall continue in accordance with the time period(s) specified in EXHIBIT "C".

ARTICLE 3 - PAYMENTS TO CONTRACTOR

- A. The total amount to be paid by the COUNTY under this Contract for all services and materials including, if applicable, "out of pocket" expenses shall not exceed a total contract amount of \$2,781,565. The CONTRACTOR will bill the COUNTY as specified in EXHIBIT "A", EXHIBIT "B", and EXHIBIT "C".
- B. Invoices received from the CONTRACTOR pursuant to this Contract will be reviewed and approved by the COUNTY'S representative to verify that the applicable services have been rendered, all applicable software has been delivered and successfully installed and tested by the CONTRACTOR and the COUNTY, and software licenses and documentation have been received in conformity with EXHIBIT "A", EXHIBIT "B" and EXHIBIT "C" of this Contract. Approved invoices will then be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the COUNTY representative's approval.
- C. Invoices received from the CONTRACTOR pursuant to this Contract are subject to the Florida Prompt Payment Act.
- D. Final Invoice: In order for both parties herein to close their books and records, the CONTRACTOR will clearly state "final invoice" on the CONTRACTOR'S final/last billing to the COUNTY. This shall constitute CONTRACTOR'S certification that all services have been properly performed and all charges and costs have been invoiced to Palm Beach County. Any other charges not properly included on this final invoice are waived by the CONTRACTOR.

ARTICLE 4 - DELIVERABLE ACCEPTANCE

- A. Procedures in General: Acceptance of deliverables will be conducted in accordance with the following procedures. All time periods specified in the following procedures are defaults that may be overridden by the applicable STATEMENT OF WORK.
- B. Written Deliverables: The CONTRACTOR may submit interim drafts of a Written Deliverable to the COUNTY for review. The COUNTY agrees to review each interim draft within ten (10) business days after receiving it from the CONTRACTOR. The COUNTY will have the opportunity to review the Written Deliverable for an acceptance period of ten (10) business days after delivery of the final version of the Written Deliverable (the "Acceptance Period"). The COUNTY agrees to notify the CONTRACTOR in writing by the end of the Acceptance Period either stating that the Written Deliverable is accepted in the form delivered by the CONTRACTOR or

describing in reasonable detail any substantive deficiencies that must be corrected prior to acceptance of the Written Deliverable. If the CONTRACTOR does not receive any such deficiency notice from the COUNTY by the end of the Acceptance Period, the Written Deliverable will be deemed to be accepted. If the COUNTY delivers to the CONTRACTOR a timely notice of deficiencies, the CONTRACTOR will correct the described deficiencies within a reasonable period of time given the nature of the deficiency, not to exceed ten (10) business days without written approval of the COUNTY. Upon receipt of a corrected Written Deliverable from the CONTRACTOR, the COUNTY will have a reasonable additional period of time, not to exceed ten (10) business days, to review the corrected Written Deliverable to confirm that the identified and agreed-upon deficiencies have been corrected. The time period for review and acceptance of Written Deliverables may be extended by mutual agreement between the parties. The COUNTY will not unreasonably withhold, delay or condition its approval of a final Written Deliverable.

The CONTRACTOR agrees to submit all Written Deliverables, including interim drafts and final versions, to the COUNTY in a mutually acceptable electronic format as well as hard copy.

C. **Software Deliverables:** Acceptance testing is an iterative process designed to determine whether the Software Deliverable performs the functions described in its approved Specifications and to discover and remove Nonconformities through repeated testing cycles. As used in this Contract, "Nonconformity" means a reproducible condition in a Software Deliverable that prevents the Software Deliverable from performing the functions described in its Specifications such that the Software Deliverable does not operate or cannot be used in a production environment. At least forty-five (45) days prior to the date on which the CONSULTANT is scheduled to deliver any Software Deliverable to the COUNTY, the COUNTY will deliver for the CONTRACTOR'S review proposed testing procedures for the Software Deliverable, including test cases, test data and expected results. At least thirty (30) days prior to the date on which the CONTRACTOR is scheduled to deliver the Software Deliverable to the COUNTY, the parties will agree upon the testing procedures for the Software Deliverable (the "Acceptance Tests").

1. The Acceptance Test Period for each Software Deliverable will be thirty (30) days. The Acceptance Test Period for each Software Deliverable will begin when the CONTRACTOR has completed and delivered the Software Deliverable to the COUNTY'S designated site, successfully completed the CONTRACTOR'S installation test and notified the COUNTY that the Software Deliverable is "Ready for Acceptance." The CONTRACTOR will not be obligated to deliver a Software Deliverable to the COUNTY until the COUNTY demonstrates the readiness of the target technical platform and environment, as described and according to the schedule specified in the STATEMENT OF WORK.

2. THE COUNTY will start to perform Acceptance Testing on each Software Deliverable promptly after receiving the CONTRACTOR'S notice that the Software Deliverable is Ready for Acceptance. The COUNTY'S Acceptance Testing will consist of executing test scripts from the Acceptance Tests during the Acceptance Test Period. If the COUNTY determines during the Acceptance Period that the Software Deliverable contains a Nonconformity, the COUNTY will promptly send the CONTRACTOR written notice reporting the alleged Nonconformity. A Nonconformity will only be considered "Reported" if it is described to the CONTRACTOR in sufficient detail to allow the CONTRACTOR to recreate it. The CONTRACTOR will modify the Software Deliverable to remove the Reported Nonconformity and will provide the modifications to the COUNTY for re-testing. The COUNTY will then re-test the modified portions of the Software Deliverable promptly after receiving the modifications from the CONTRACTOR.
3. By the end of the Acceptance Period, the COUNTY will provide the CONTRACTOR with a final written list reporting any outstanding Nonconformities (the "Punch List"). The CONTRACTOR will modify the Software Deliverable to remove the Nonconformities that are Reported on the Punch List and will provide the modifications to the COUNTY. The COUNTY will have fifteen (15) business days after receipt of the modifications to re-test the modified Software Deliverable to confirm that the Nonconformities that are Reported on the Punch List have been removed. If any Nonconformities that were Reported on the Punch List have not been removed, the COUNTY will provide the CONTRACTOR with written notice by the end of the re-testing period Reporting any such Nonconformities. In such event, the procedures set forth in this Section will be repeated for the remaining Nonconformities on the Punch List.
4. The CONTRACTOR and the COUNTY each agrees to work diligently to achieve acceptance of Software Deliverables at the earliest possible date, and the COUNTY will work diligently to put the Software Deliverable in live production operations. Acceptance of a Software Deliverable will take place when any of the following events occurs: (i) the COUNTY gives the CONTRACTOR written notice of acceptance; (ii) the COUNTY uses the Software Deliverable or any substantial portion of it in live production operations; (iii) the Acceptance Period expires without the COUNTY having given the CONTRACTOR the Punch List; or (iv) the re-testing period expires without the COUNTY having given the CONTRACTOR notice of remaining Nonconformities on the Punch List.

For purposes of this Contract, "Software Deliverables" refer exclusively to modifications made by AMS to the ADVANTAGE 3.x System or additional modules provided by AMS as specified in the applicable STATEMENT OF WORK.

ARTICLE 5 - TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Contract by the CONTRACTOR shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the CONTRACTOR'S most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside consultants. The COUNTY shall exercise its rights under this ARTICLE 5 within three (3) years following final payment.

ARTICLE 6 - TERMINATION

- A. **Termination for Convenience:** This Contract may be terminated, in whole or in part, by the COUNTY, with or without cause, immediately upon written notice to the CONTRACTOR.

- B. **Termination for Cause:** If a party believes that the other party has failed to perform a fundamental obligation the failure of which defeats the essential purpose of the Contract under which the obligation arises (a "Breach"), then that party may provide written notice directed to the breaching party describing the alleged Breach in reasonable detail and containing a reference to this ARTICLE 6. If the breaching party does not, within thirty (30) days after receiving such written notice, either (i) cure the Breach or (ii) if the Breach is not one that can reasonably be cured within thirty (30) days, develop a plan to cure the Breach and diligently proceed according to the plan until the Breach has been cured, then the non-breaching party may terminate this Contract for cause by providing written notice to the breaching party. Prior to termination of this Contract for cause, the party receiving the initial notice under the preceding sentence will be afforded an opportunity to meet with a senior management representative of the non-breaching party to explain its position.

- C. **Action Upon Termination:** The CONTRACTOR shall be paid for services rendered to the COUNTY'S satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the COUNTY the CONTRACTOR shall:
 - 1. Stop work on the date and to the extent specified.
 - 2. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.

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- 3. Transfer all work in process, completed work, and other materials related to the terminated work to the COUNTY.
- 4. Continue and complete all parts of the work that have not been terminated.

D. **Termination of the Proprietary Software License:** Should the COUNTY decide to terminate the Proprietary Software License for any reason, the COUNTY must within thirty (30) days, at the CONTRACTORS option, either deliver to the CONTRACTOR or destroy the original and all copies (including partial copies) of the Software, the Documentation, all CONTRACTOR Confidential Information, and any other materials provided by the CONTRACTOR under this Agreement, including copied portions contained in derivative works, and certify in writing to the CONTRACTOR that the COUNTY has fully performed its obligations under this paragraph.

ARTICLE 7 - PERSONNEL

The CONTRACTOR represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

All of the services required hereinunder shall be performed by the CONTRACTOR or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

Any changes or substitutions in the CONTRACTOR'S key personnel, as listed in EXHIBIT "A" must be made known to the COUNTY'S representative and written approval must be granted by the COUNTY'S representative before said change or substitution can become effective.

All of the CONTRACTOR'S personnel (and all Subcontractors) while on COUNTY premises will comply with all COUNTY requirements governing conduct, safety and security.

ARTICLE 8 - SUBCONTRACTING

The COUNTY reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Contract. The CONTRACTOR is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities. If the CONTRACTOR uses any subcontractors on this project the following provisions of this ARTICLE shall apply:

If a subcontractor fails to perform or make progress, as required by this Contract, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the CONTRACTOR shall promptly do so, subject to acceptance of the new subcontractor by the COUNTY.

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The CONTRACTOR agrees to abide by all provisions of the applicable M/WBE provisions of the Palm Beach County Code and understands that failure to comply with any of the requirements will be considered a breach of contract.

The CONTRACTOR understands that each minority and/or women owned firm utilized on this contract must be certified by Palm Beach County in order to be counted as M/WBE participation.

The CONTRACTOR further agrees to provide the Office of Small and Minority/Women Business Assistance with a copy of the CONTRACTOR'S contract with any M/WBE subcontractor or any other related documentation upon request.

The CONTRACTOR understands the requirements to comply with the tasks and proportionate dollar amounts throughout the term of the contract as it relates to the use of M/WBE firms.

The CONTRACTOR will only be permitted to replace a certified M/WBE subcontractor who is unwilling or unable to perform. Such substitutions must be done with other certified M/WBE in order to maintain the M/WBE percentages established in this contract. If the CONTRACTOR cannot find a certified M/WBE to replace the originally proposed M/WBE, the CONTRACTOR must establish it has exercised good faith efforts in an attempt to do so. Requests for substitutions of M/WBE must be submitted to the COUNTY'S representative, with a copy to the COUNTY Office of Small and Minority/Women Business Assistance.

The CONTRACTOR understands that he/she is prohibited from making any agreements with the M/WBE in which the M/WBE promises not to provide sub-contractors quotations to other bidders or potential bidders.

The CONTRACTOR agrees to maintain all relevant records and information necessary to document compliance with the applicable M/WBE provisions of the Palm Beach County Code, as amended, and will allow the COUNTY to inspect such records.

ARTICLE 9 - FEDERAL AND STATE TAX

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will provide an exemption certificate upon request to the CONTRACTOR. The CONTRACTOR shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the CONTRACTOR authorized to use the COUNTY'S Tax Exemption Number in securing such materials.

The CONTRACTOR shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this contract.

ARTICLE 10 - AVAILABILITY OF FUNDS

The COUNTY'S performance and obligation to pay under this contract for current and

subsequent fiscal years is contingent upon annual appropriations for its purpose by the Board of County Commissioners.

ARTICLE 11 - PERFORMANCE BOND

The CONTRACTOR shall furnish to the COUNTY a Performance Bond or Clean Irrevocable Letter of Credit in the amount of **\$1,850,000** prior to commencement of work, and shall keep the same in full force and effect during the period of performance under EXHIBIT "A" and any material warranties whichever shall be concluded last.

The CONTRACTOR shall furnish a Performance Bond in a form and format satisfactory to the COUNTY as security for the faithful performance of the Contract and shall indemnify the COUNTY against such damages as may be suffered by failure of the CONTRACTOR to perform such Contract according to the provisions thereof and in accordance with the specifications.

The Bond(s) shall be issued by a company authorized to do business in the State of Florida and having a currently valid certificate of authority and bonding capacity, as issued by the United States Department of Treasury under 31.U.S.C., sections 9304 through 9308. The CONTRACTOR shall verify with the COUNTY, prior to execution of the Contract, the acceptability of the surety provided thereunder. The attorney-in-fact who signs the Bond(s) must file, with the Bond(s), a certificate and effective dated copy of power of attorney. The CONTRACTOR must furnish the executed Bond(s) prior to the COUNTY'S approval of the Contract.

ARTICLE 12 - INSURANCE

- A. It shall be the responsibility of the CONTRACTOR to provide evidence of the following minimum amounts of insurance coverage to Palm Beach County Information Systems Services (ISS) Department, 301 North Olive Avenue, 8th floor, West Palm Beach, FL. 33401, Attention: Steve Bordelon, ISS Director.
- B. The CONTRACTOR shall, on a primary basis and at its sole expense, maintain in full force and effect at all times during the life of this Contract, insurance coverages and limits (including endorsements), as described herein. Failure to maintain the required insurance will be considered default of the Contract. The requirements contained herein, as well as the COUNTY'S review or acceptance of insurance maintained by the CONTRACTOR are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the CONTRACTOR under the Contract.
- C. **Commercial General Liability:** The CONTRACTOR shall maintain Commercial General Liability at a limit of liability not less than **\$500,000** Each Occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.

- D. **Business Automobile Liability:** The CONTRACTOR shall maintain Business Auto Liability at a limit of liability not less than \$500,000 Each Occurrence for all owned, non-owned and hired automobiles. In the event the CONTRACTOR owns no automobiles, the Business Auto Liability requirement shall be amended allowing the CONTRACTOR to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form.
- E. **Worker's Compensation Insurance & Employers Liability:** The CONTRACTOR shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440.
- F. **Professional Liability:** The CONTRACTOR shall maintain Professional Liability, or equivalent Errors & Omissions Liability at a limit of liability not less than \$1,000,000 Per Occurrence. When a self-insured retention (SIR) or deductible exceeds \$10,000, the COUNTY reserves the right, but not the obligation, to review and request a copy of the CONTRACTOR'S most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, the CONTRACTOR warrants the Retroactive Date equals or precedes the effective date of this Contract. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Contract, the CONTRACTOR shall purchase a SERP with a minimum reporting period not less than 3 years.
- G. **Additional Insured Clause:** Except as to Business Auto, Workers' Compensation and Employer's Liability (and Professional Liability, when applicable), the Certificate(s) of Insurance shall clearly confirm that coverage required by the Contract has been endorsed to include Palm Beach County as an Additional Insured.
- H. **Waiver of Subrogation:** The CONTRACTOR hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then the CONTRACTOR shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should the CONTRACTOR enter into such an agreement on a pre-loss basis.
- I. **Certificate(s) of Insurance:** Upon request by the COUNTY to do so, the CONTRACTOR will immediately provide the COUNTY with a copy of a signed Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by this Contract have been obtained and are in full force and effect. Within

forty-eight (48) hours of the COUNTY'S request to do so, the CONTRACTOR shall deliver to the COUNTY an original signed Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by this Contract have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage.

- J. **Umbrella or Excess Liability:** If necessary, the CONTRACTOR may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.
- K. **Right to Review:** The COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the term of this Contract. The COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition or failure to operate legally.

ARTICLE 13 - INDEMNIFICATION

The CONTRACTOR will, at its own expense and subject to the provisions set forth below, defend, indemnify and hold COUNTY harmless from and against all liabilities, claims, losses, damages, costs and expenses (including reasonable attorneys' fees) for personal injury and damage to tangible property to the extent arising out of the CONTRACTOR'S negligence or intentional tortious conduct.

A party's indemnification obligations specified in this Contract are conditioned upon the indemnified party promptly notifying the indemnifying party in writing of the proceeding, providing the indemnifying party a copy of all notices received by the indemnified party with respect to the proceeding, cooperating with the indemnifying party in defending or settling the proceeding, and allowing the indemnifying party to control the defense and settlement of the proceeding, including the selection of attorneys. The indemnified party may observe the proceeding and confer with the indemnifying party at its own expense.

ARTICLE 14 - SUCCESSORS AND ASSIGNS

The COUNTY and the CONTRACTOR each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract.

Except as above, neither the COUNTY nor the CONTRACTOR shall assign, sublet, convey or transfer its interest in this Contract without the prior written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONTRACTOR.

ARTICLE 15 - WARRANTY

- A. **Quality of Services:** The CONTRACTOR warrants that all services shall be performed by skilled and competent personnel in a workmanlike manner consistent with industry standards reasonably applicable to the performance of such services. If the COUNTY believes there has been a breach of this warranty, it must notify the CONTRACTOR in writing within ninety (90) days from the date of performance stating in reasonable detail the nature of the alleged breach. If there has been a breach of this warranty, then the CONTRACTOR'S sole obligation, and the COUNTY'S exclusive remedy, will be for the CONTRACTOR to correct or re-perform, at no additional charge, any affected services to cause them to comply with this warranty. However, if the CONTRACTOR is unable to correct a breach of this warranty after repeated efforts, COUNTY will also be entitled to receive an equitable adjustment in the CONTRACTOR charges for the services in question (up to the total amount of such charges under this Contract) to reflect any reduction in the value of the services as a result of the uncorrected breach of warranty.
- B. **Software Deliverables Produced on a Fixed-Price Basis:** The CONTRACTOR warrants that, during any Warranty Period specified in the applicable STATEMENT OF WORK (or if no Warranty Period is specified in the STATEMENT OF WORK, for a period of ninety (90) days from acceptance), each Software Deliverable developed on a fixed-price basis and accepted by the COUNTY under that STATEMENT OF WORK will continue to perform the functions described in its Specifications without Defects. As used in this Contract, "Defect" means a reproducible material deviation of a Software Deliverable from its Specifications. If the COUNTY believes there has been a breach of this warranty, it must notify the CONTRACTOR in writing within the Warranty Period describing the Defect in sufficient detail to enable the CONTRACTOR to recreate it. If there has been a breach of this warranty, then the CONTRACTOR'S sole obligation, and the COUNTY'S exclusive remedy, will be for the CONTRACTOR to correct the Defect at no additional charge. However, if the CONTRACTOR is unable to correct a breach of this warranty after repeated efforts, the COUNTY will also be entitled to an equitable adjustment in the CONTRACTOR'S charges for the Software Deliverable (up to the total amount of such charges under the applicable STATEMENT OF WORK) to reflect any reduction in the value of the Software Deliverable as a result of the uncorrected Defect.
- C. **Third-Party Products:** To the extent the CONTRACTOR has the legal right to do so, the CONTRACTOR agrees to assign or pass through to the COUNTY or otherwise make available for the benefit of the COUNTY, any manufacturer's or supplier's warranty applicable to any third-party software, hardware or equipment provided by the

CONTRACTOR under a STATEMENT OF WORK. The CONTRACTOR does not itself give or make any warranty of any kind with respect to third-party software, hardware or equipment.

THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, INTEGRATION, PERFORMANCE AND ACCURACY AND ANY IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

ARTICLE 16 - LIMITATION OF LIABILITY AND REMEDIES

This Contract shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Contract will be held in Palm Beach County.

- A. **Limitations:** If the COUNTY should become entitled to claim damages from the CONTRACTOR for any reason (including without limitation, for breach of contract, breach of warranty, negligence or other tort claim), the CONTRACTOR will be liable only for the amount of the COUNTY'S actual direct damages up to the amount that the COUNTY paid the CONTRACTOR for the items or Services that are the subject of the claim. In no event, however, will the CONTRACTOR be liable to COUNTY for more than the amount paid by the COUNTY to the CONTRACTOR under this Contract. These limits also apply to the CONTRACTOR'S subcontractors. They are the maximum liability for which the CONTRACTOR and its subcontractors are collectively responsible.

- B. **No Liability for Certain Damages:** In no event will the CONTRACTOR or any person or entity involved in the creation, manufacture or distribution of any software, services or other materials provided by the CONTRACTOR under this Contract be liable for: (i) any damages arising out of or related to the failure of the COUNTY or its suppliers to perform their responsibilities; (ii) any claims or demands of third parties (other than those third party claims covered by ARTICLE 13 - INDEMNIFICATION); or (iii) any lost profits, loss of business, loss of data, loss of use, lost savings or other consequential, special, incidental, indirect, exemplary or punitive damages, even if the CONTRACTOR has been advised of the possibility of such damages.

- C. **Exclusions from Limitation; Survival:** The foregoing limitations do not apply to the payment of settlements, costs, damages and legal fees referred to in ARTICLE 13 - INDEMNIFICATION. The limitations of liability set forth in this ARTICLE 16 will survive and apply notwithstanding the failure of any limited or exclusive remedy for breach of warranty set forth in the Contract. The parties agree that the foregoing limitations will not be read so as to limit any liability to an extent that would not be permitted under applicable law.

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No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

ARTICLE 17 - CONFLICT OF INTEREST

The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes. The CONTRACTOR further represents that no person having any such conflict of interest shall be employed for said performance of services.

The CONTRACTOR shall promptly notify the COUNTY'S representative, in writing, by certified mail, of all potential conflicts of interest of any prospective business association, interest or other circumstance which may influence or appear to influence the CONTRACTOR'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONTRACTOR may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute a conflict of interest if entered into by the CONTRACTOR. The COUNTY agrees to notify the CONTRACTOR of its opinion by certified mail within thirty (30) days of receipt of notification by the CONTRACTOR. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONTRACTOR, the COUNTY shall so state in the notification and the CONTRACTOR shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the CONTRACTOR under the terms of this Contract.

ARTICLE 18 - EXCUSABLE DELAYS

The CONTRACTOR shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the CONTRACTOR or its subcontractors and without their fault or negligence. Such causes include, but are not limited to, acts of God, force majeure, natural or public health emergencies, labor disputes, freight embargoes, and abnormally severe and unusual weather conditions.

Upon the CONTRACTOR'S request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if the CONTRACTOR'S failure to perform was without it or its subcontractors fault or negligence, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly, subject to the COUNTY'S rights to change, terminate, or stop any or all of the work at any time.

ARTICLE 19 - ARREARS

The CONTRACTOR shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

ARTICLE 20 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The CONTRACTOR shall deliver to the COUNTY'S representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under this Contract.

To the extent allowed by Chapter 119, Florida Statutes, all written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by either party or at its expense will be kept confidential by the other party and will not be disclosed to any other party, directly or indirectly, without the disclosing party's prior written consent unless required by a lawful court order. All drawings, maps, sketches, ~~programs~~, data base, reports and other data developed specifically for the COUNTY under this Contract for or at the COUNTY'S expense shall be and remain the COUNTY'S property and may be reproduced and reused at the discretion of the COUNTY.

Any pre-existing CONTRACTOR or third-party materials incorporated in a deliverable or necessary to use a deliverable will be licensed to the COUNTY under a separate written license agreement between the CONTRACTOR and the COUNTY, or obtained by the COUNTY from the applicable third party vendor.

Neither party will be prevented from using ideas, concepts, expressions, know-how, skills and experience possessed by it prior to, or developed or learned by it in the course of, performance under the Contract.

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

ARTICLE 21 - INDEPENDENT CONTRACTOR RELATIONSHIP

The CONTRACTOR is, and shall be, in the performance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the CONTRACTOR'S sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR'S

relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

The CONTRACTOR does not have the power or authority to bind the COUNTY in any promise, agreement or representation.

ARTICLE 22 - CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

ARTICLE 23 - ACCESS AND AUDITS

The CONTRACTOR shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion or termination of this Contract. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the CONTRACTOR'S place of business.

ARTICLE 24 - NONDISCRIMINATION

The CONTRACTOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

ARTICLE 25 - AUTHORITY TO PRACTICE

The CONTRACTOR hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the COUNTY'S representative upon request.

ARTICLE 26 - PUBLIC ENTITY CRIMES

As provided in F.S. 287.132-133, by entering into this contract or performing any work in furtherance hereof, the CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

ARTICLE 27 - MODIFICATIONS OF WORK

The COUNTY reserves the right to make changes in STATEMENT OF WORK, including alterations, reductions therein or additions thereto. Upon receipt by the CONTRACTOR of the COUNTY'S notification of a contemplated change, the CONTRACTOR shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the COUNTY of any estimated change in the completion date, and (3) advise the COUNTY if the contemplated change shall affect the CONTRACTOR'S ability to meet the completion dates or schedules of this Contract.

If the COUNTY so instructs in writing, the CONTRACTOR shall suspend work on that portion of the STATEMENT OF WORK affected by a contemplated change, pending the COUNTY'S decision to proceed with the change.

If the COUNTY elects to make the change, the COUNTY shall initiate a Contract Amendment and the CONTRACTOR shall not commence work on any such change until such written amendment is signed by the CONTRACTOR and approved and executed on behalf of Palm Beach County.

ARTICLE 28 - NOTICE

Until otherwise notified in writing by the other party, all notices required in this Contract shall be sent by certified mail, return receipt requested, hand delivery or other delivery service requiring signed acceptance. If sent to the COUNTY, notices shall be addressed to:

Palm Beach County
Information Systems Services (ISS) Department
301 North Olive Avenue, 8th Floor
West Palm Beach, Florida 33401
Attn: Information Systems Services (ISS) Director
Fax: (561) 355-3482
Phone: (561) 355-2823

With copy to:

Palm Beach County Attorney's Office
301 North Olive Ave.
West Palm Beach, Florida 33401
Attn: County Attorney
Fax: (561) 355-4398
Phone: (561) 355-2225

If sent to the CONTRACTOR, notices shall be addressed to:

American Management Systems, Incorporated
4050 Legato Road
Fairfax, Virginia 22033
Attn: Donna Morea
Executive Vice President
Fax: (703) 267-8404
Phone: (703) 267-2174
e-mail: Donna.Morea@ams.com

With copy to:

American Management Systems, Incorporated
4050 Legato Road
Fairfax, Virginia 22033
Attn: Sharie Kirsch
Senior Principal
Fax: (703) 267-8404
Phone: (703) 267-8816
e-mail: Sharie.Kirsch@ams.com

ARTICLE 29 - DISPUTES

- A. **Waiver of Jury Trial:** Due to the high costs and time involved in commercial litigation before a jury, the parties waive all right to a jury trial with respect to any and all issues in any action or proceeding arising out of or related to this Contract.
- B. **Informal Dispute Resolution:** At the written request of either party, the parties will attempt to resolve any dispute arising under or relating to the Contract through the informal means described in this section. Each party will appoint a senior management representative who does not devote substantially all of his or her time to performance under the Contract. The representatives will furnish to each other all non-privileged information with respect to the dispute that the parties believe to be appropriate and germane. The representatives will negotiate in an effort to resolve the dispute without the necessity of any formal proceeding. Formal proceedings for the resolution of the dispute may not be commenced until the earlier of: (i) the designated representatives conclude that resolution through continued negotiation does not appear likely; or (ii) thirty (30) calendar days have passed since the initial request to negotiate the dispute was made; provided, however, that a party may file earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or to apply for interim or equitable relief.

ARTICLE 30 - ENTIRETY OF CONTRACTUAL AGREEMENT

The COUNTY and the CONTRACTOR agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with ARTICLE 27 - MODIFICATIONS OF WORK.

ARTICLE 31 - SEVERABILITY

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 32 - DOCUMENTS AND PRECEDENCE

The documents referred to in this Contract as EXHIBIT "A", EXHIBIT "B" and EXHIBIT "C" are incorporated herein and made a part hereof in their entirety. In the event of any conflict, inconsistency or ambiguity between or among the provisions contained in the Contract and these EXHIBITS, the parties hereto agree that the following order of priority and precedence will govern: (1) the Contract, exclusive of its EXHIBITS; (2) the EXHIBITS to this Contract, exclusive of their ATTACHMENTS; and (3) the ATTACHMENTS to the EXHIBITS.

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Contract on behalf of the COUNTY and the CONTRACTOR has hereunto set its hand the day and year above written.

R2002 1782

ATTEST:
DOROTHY H. WICKEN, Clerk
By: Linda C. Heston
Deputy Clerk
COUNTY COMMISSIONERS
PALM BEACH COUNTY
FLORIDA

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:

By: Warren H. Newell OCT 01 2002
Warren H. Newell, Chairman

WITNESS:

CONTRACTOR:

Joseph C. Forni
Signature

AMERICAN MANAGEMENT
Company Name SYSTEMS, INCORPORATED

JOSEPH C. FORNI
Name (type or print)

[Signature]
Signature

Elizabeth Elliot
Signature

B.K. NARAYAN
Typed Name

ELIZABETH ELLIOT
Name (type or print)

VICE PRESIDENT
Title

(Corporate Seal)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: Paul F. K...
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By: Steven Bordenon
Department Head

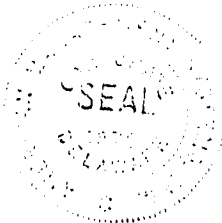


EXHIBIT "A"

STATEMENT OF WORK

This STATEMENT OF WORK is between Palm Beach County, hereinafter referred to as the COUNTY, and American Management Systems, Incorporated, hereinafter referred to as the CONTRACTOR.

1. Effective Date and Schedule of this STATEMENT OF WORK

This STATEMENT OF WORK is effective as of October 1, 2002, through March 31, 2004.

With the exception of the Vendor Self-Service module, all services to be performed by the CONTRACTOR will commence on October 1, 2002 and be completed by September 30, 2003; services for the Vendor Self-Service module will be completed by March 31, 2004.

Given the criticality of the implementation deadlines associated with ADVANTAGE 3.x, BRASS, and Vendor Self Service, both the COUNTY and the CONTRACTOR agree to provide all reasonable additional resources necessary to ensure that these deadlines are met. Each party further agrees to absorb their respective costs associated with these additional resources.

2. Services to be Performed by CONTRACTOR

The CONTRACTOR'S services will consist of:

a. General Requirements

- 1) Providing professional services to the COUNTY in migrating to AMS ADVANTAGE 3.x as modified by the CONTRACTOR to meet the functional requirements of the COUNTY as defined in AMS' "Upgrade Analysis Report," dated August 15, 2002, (*ATTACHMENT A* to this STATEMENT OF WORK) and further clarified in "AMS Response to Consolidated Upgrade Analysis Response," dated September 6, 2002, (*ATTACHMENT B-1* to this STATEMENT OF WORK and "AMS Response to ISS' Comments," dated September 6, 2002, (*ATTACHMENT B-2* to this STATEMENT OF WORK), including all CONTRACTOR-specified "Third Party" software.
- 2) Modifying ADVANTAGE 3.x as specified in *ATTACHMENT C*.

- 3) Providing the following additional functionality to the COUNTY through the following AMS modules:
 - a) BRASS
 - b) Project and Grant Management
 - c) Vendor Self-Service
- 4) Providing a detailed Project Plan to complete migration according to the established schedule for this STATEMENT OF WORK.
- 5) For those functionalities initially identified in AMS' "Upgrade Analysis Report" or "AMS Response to Consolidated Upgrade Analysis Response" or "AMS Response to ISS' Comments" as being provided through "Setups," "Interfaces," "Reports," "Configuration," "Forms" or any means other than modification, but ultimately requiring modifications to provide the stated functionality, modifying ADVANTAGE 3.x to provide the functionality at no additional cost to the COUNTY.

b. Augmented CONTRACTOR Support

The CONTRACTOR will dedicate one and a half (1.5) full-time equivalent (FTE) positions on site in Palm Beach County from November 1, 2002 through September 30, 2003, and one (1.0) full-time equivalent (FTE) position from October 1, 2003 through March 31, 2004, to provide technical assistance including providing knowledge transfer of the ADVANTAGE 3.x data model, training on the ADVANTAGE utility tool (SysManUtil), training on the ADVANTAGE Design Studio (Versata), assistance in establishing operational procedures and scripts, conversion development and testing, assistance with production cutover, and post implementation support.

c. Additional Tasks

The CONTRACTOR will provide additional professional services to the COUNTY at an additional cost of \$115/hour, whether off-site or on-site, with hours to be mutually agreed upon by the COUNTY and the CONTRACTOR. Modifications specifically identified in ATTACHMENT D will be completed based upon the hours specified in that ATTACHMENT.

3. Tasks and Deliverables

ATTACHMENT E contains a list of tasks and deliverables which apply to the migration of ADVANTAGE 2.2 to ADVANTAGE 3.x. Tasks and deliverables applicable to BRASS and Vendor Registration; and Bid/Solicitation Processing are contained in separate tables following. The responsibilities of COUNTY and CONTRACTOR staff, as well as the

planned starting and ending dates for each major upgrade task, are outlined in *ATTACHMENT E*.

The CONTRACTOR will provide one hard copy and one soft copy of each deliverable. The CONTRACTOR will develop two versions of the written deliverables, an initial draft and a final revision that incorporates the COUNTY'S feedback.

4. **Compensation**

Method of Payment: The COUNTY will pay for the Services on a fixed-price basis. The total fixed price for this STATEMENT OF WORK is **\$1,850,000** and is payable based upon completion of all tasks and COUNTY acceptance of deliverables as specified in *ATTACHMENT E* in accordance with the following schedule:

Payment Schedule	Payment
1. Development of Project Plan and Completion of Team Training	\$244,640
a. Detailed Workplan	
b. Standard AMS ADVANTAGE 3.x product training for a maximum of twelve (12) COUNTY staff	
2. Completion of Rapid Prototype	\$445,440
a. Map of current business processes to AMS ADVANTAGE functionality	
b. Document results and upgrade issues	
3. Delivery of BRASS Fit Analysis	\$150,400
a. Fit Document incorporating comments from Prototype	
4. Go-Live with BRASS	\$114,240
5. Completion of each Modification from <i>ATTACHMENT C</i>	0
a. Mod. #1 [Items 12.00 and 13.00]	\$0
b. Mod. #2a. and 2b. [Items 3.00 and 4.00]	\$0
c. Mod. #3a. and 3b. [Items 11.00; 13.00; 36.00; and 37.00]	\$42,000
d. Mod. #4 [Item 14.00]	\$0
e. Mod. #5 [Item 20.00]	\$22,400
f. Mod. #6 [Item 12.00]	\$25,200
g. Mod. #7 [Item 29.00]	\$25,200
h. Mod. #8 [Item 30.00]	\$11,200
i. Mod. #9 [Item 74.00]	\$11,200
j. Mod. #10 [Item 47.00]	\$2,800
k. Mod. #11 [Item 25.00]	\$42,000
l. Mod. #12 [Items 1.13; and 1.00 thru 10.00]	\$0
m. Mod. #13 [Item 6.00]	\$0

Payment Schedule	Payment
6. Completion of System Test	\$114,240
a. System Test Plan	
b. System Testing Results	
7. Completion of Acceptance Test	\$172,320
a. Completion of User Acceptance Test per Workplan	
8. Go-live with Utilizing Currently Licensed Components	\$354,400
9. Go live with Vendor Registration	\$36,160
10. Go live with Bid/Solicitation	\$36,160
Total	\$1,850,000

5. **Key Personnel**

The key personnel responsible for this STATEMENT OF WORK are:

COUNTY	CONTRACTOR
Donald Carter (Project Manager)	Larry Polster (Engagement Manager)
Linda Templeton	Joe Murray (Project Manager)
Radcliffe Brown	Becka Stautberg
Ken West	Rachael Berkowski (BRASS)

6. **Resources and Responsibilities of the COUNTY**

The COUNTY will provide the following resources and has the following responsibilities in supporting the CONTRACTOR'S performance of the Services:

a. **Services or Support:**

- 1) The COUNTY will provide a dedicated full-time Project Manager for the duration of the project. The COUNTY'S Project Manager will be qualified to manage a large scale IT project, be responsible for ensuring the performance of the COUNTY personnel, empowered to make decisions on behalf of the COUNTY, and for coordinating activities including but not limited to providing needed documentation, resources and tools. The CONTRACTOR will coordinate its project activities (including project issues, contract and/or amendments, invoicing, status reports, etc.) through the Project Manager;
- 2) A dedicated Project Team will be established to work on the project. The COUNTY will provide adequate number of staff required for the timely completion of the COUNTY'S responsibilities on the project;

- 3) The COUNTY will provide subject matter experts (with COUNTY-specific AMS ADVANTAGE 2.x functional knowledge, including, but not limited to system table setups, document usage, and modifications) familiar with existing procedures and associated decision makers who are empowered to make design and implementation decisions in support of implementation activities. COUNTY resources will be provided consistent with the levels indicated in the project work plan.
- 4) The COUNTY will, to the extent practical, provide required subject matter expertise within the central project site so the project team can easily gather required information without significant travel from the central project site.
- 5) During the course of the project, the COUNTY will make departmental users available to participate in the project as appropriate.
- 6) The COUNTY will assign staff knowledgeable in Solaris/Oracle and ADVANTAGE 2.x to be trained by the CONTRACTOR in the installation, operation, and production migration to AMS ADVANTAGE 3.x;
- 7) Issues arising from the project will be resolved in a timely manner to comply with the project schedule. The COUNTY will review the available options for the project issues and make prompt decisions to resolve them. All project issues will normally be resolved within five (5) business days.
- 8) The setup of security/approval schemes will be a manual process and will be a COUNTY responsibility.

b. Facilities and Equipment:

- 1) For each member of the COUNTY'S functional team, the COUNTY will provide the workstation configuration specified in Section IX.4 of the Upgrade Analysis Report within ten (10) business days of the agreed upon start date of the project.
- 2) For each member of the COUNTY'S technical team, the COUNTY will provide the workstation configuration specified in Section IX.5 of the Upgrade Analysis Report within forty-five (45) business days of the agreed upon start date of the project.
- 3) To facilitate maintenance and configuration of the application, the

COUNTY will provide one workstation configuration specified in Section IX.6 of the Upgrade Analysis Report within forty-five (45) business days of the agreed upon start date of the project.

- 4) Within ten (10) business days of the agreed upon start date of the project, the following work environment will be available for the CONTRACTOR'S team members:
 - a) Workspace for approximately six (6) staff (including at least one private office) and normal office supplies including desks, phones, fax facilities, white board, adequate filing space and access to conference rooms for project-related meetings;
 - b) Ethernet connections for approximately 6 staff;
 - c) User-Id's/Passwords for approximately 6 staff for LAN access to files servers for document storage;
 - d) Access to network Laser printers (dedicated project printer preferable);
 - e) Access to the Internet;
 - f) Ability to utilize the CONTRACTOR'S VPN for continuous access to the CONTRACTOR'S databases at the CONTRACTOR'S home office;
 - g) Access to test application (copy of production) of ADVANTAGE 2.2 (2 User-Id's) -- both CICS application and TSO to extract data from ADVANTAGE 2.2; and
 - h) Security badges for site access.
- 5) The COUNTY will provide the facilities, workstations and network connectivity to support the AMS ADVANTAGE 3.x product training.
- 6) The COUNTY will provide the facilities, workstations and network connectivity to support the AMS ADVANTAGE 3.x end-user training.
- 7) Any additional facilities and equipment not enumerated above shall be supplied at the discretion of the COUNTY.

c. Environments:

- 1) The COUNTY is responsible for the setup, operation/administration, and maintenance of all infrastructure such as hardware, and system software such as databases, Web servers, networking, etc. for production, training and development environments.
- 2) The COUNTY is responsible for the setup and operation of the network infrastructure, including routers, firewalls, switches, etc. to provide the

level of security the COUNTY deems appropriate.

- 3) The COUNTY will be responsible for all file, library, and database backups. The COUNTY will also prepare, load and maintain production scripts, check off sheets, system schedules and procedures, run books, file backup and archiving schedules.
- 4) The COUNTY is responsible for application configuration management.

7. Assumptions

- a. Migration to ADVANTAGE 3.x is based upon the "Upgrade Analysis Report," dated August 15, 2002, with no modifications other than those identified in *ATTACHMENT C*, plus the additional functionality provided through AMS' BRASS, Project and Grant Management, and Vendor Self-Service modules.
- b. All reasonable efforts will be taken by the COUNTY to minimize changes to current business processes or re-organizations for the initial migration to AMS ADVANTAGE 3.x. If significant changes occur which disrupt the migration process, the impact on the project will be addressed through the COUNTY'S Change Order process.
- c. This STATEMENT OF WORK is based upon a September 30, 2003 implementation of ADVANTAGE Financial, with no historical data converted except as specified in the "Upgrade Analysis Report."
- d. The CONTRACTOR may, at its discretion, provide the services outlined in *ATTACHMENT E* from remote locations, subject to the on-site requirements identified in this STATEMENT OF WORK.
- e. This STATEMENT OF WORK does not include the cost for the purchase and implementation of digital signatures or certificates.
- f. This STATEMENT OF WORK does not include the cost for hardware or system software (e.g., Oracle, Solaris, etc.) unless specifically identified.
- g. All forms printing involving the ADVANTAGE 3.x System will take place on laser printers and will utilize the standard ADVANTAGE 3.x form layouts (e.g., Purchase Orders, etc.).
- h. The Project Management Team, comprised of the CONTRACTOR'S Project Manager and the COUNTY'S Project Manager and Key Personnel, will meet once a week to review project progress, discuss project issues and identify issues that need to be escalated to the COUNTY'S Senior Management for resolution.

- j i. Senior COUNTY Management will meet with CONTRACTOR management staff on a monthly basis to review the monthly status report and discuss project issues that require COUNTY management's attention.
- k j. Additional issues uncovered during Rapid Prototype will be analyzed, and the impact on system design and level of effort will be determined. The COUNTY and the CONTRACTOR will then come to an agreement on how to address these issues.

8. **Documents and Precedence**

- a. The order of precedence of the *ATTACHMENTS* not specifically referenced in this STATEMENT OF WORK is as follows:
 - 1) "AMS Response to Consolidated Upgrade Analysis Response" (*ATTACHMENT B-1* to this STATEMENT OF WORK) and "AMS Response to ISS' Comments" (*ATTACHMENT B-2* to this STATEMENT OF WORK).
 - 2) AMS' "Upgrade Analysis Report," dated August 15, 2002 (*ATTACHMENT A* to this STATEMENT OF WORK).
- b. This document, referred to as EXHIBIT "A", is incorporated in and made a part of the Contract between Palm Beach County and American Management Systems, Incorporated to provide professional services for AMS ADVANTAGE 3.x, and is subject to ARTICLE 32 - DOCUMENTS AND PRECEDENCE of said Contract.

Statement of Work

is over 50 pages.

Can be viewed

in Administration.

**FIRST AMENDMENT to
CONTRACT FOR PROFESSIONAL/MAINTENANCE SERVICES AND
SOFTWARE LICENSE AGREEMENT between
PALM BEACH COUNTY, FLORIDA and
AMERICAN MANAGEMENT SYSTEMS, INCORPORATED
(Contract No. R2002 1782)**

THIS FIRST AMENDMENT, is made and entered into this 19th day of March, 2004, by and between Palm Beach County, a political subdivision of the State of Florida (the "COUNTY") and American Management Systems, Incorporated (the "CONTRACTOR").

WHEREAS, the parties have entered into that certain Contract dated September 30, 2002, hereinafter referred to as the "CONTRACT", under which the CONTRACTOR is to provide professional and maintenance services and a software license for AMS Advantage[®] 3.x; and

WHEREAS, EXHIBIT "A" of the CONTRACT details the STATEMENT OF WORK for this CONTRACT, including the effective date and schedule of this STATEMENT OF WORK; and

WHEREAS, the STATEMENT OF WORK is effective as of October 1, 2002, through March 31, 2004; and

WHEREAS, the COUNTY and the CONTRACTOR desire to extend the CONTRACT for an additional ninety (90) days, for the period April 1, 2004 through June 29, 2004.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

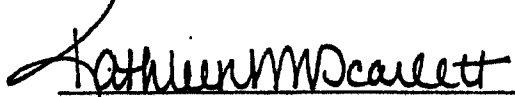
1. EXHIBIT "A" - STATEMENT OF WORK, Effective Date and Schedule of this STATEMENT OF WORK, delete the first two paragraphs in their entirety and in lieu thereof insert the following:

This STATEMENT OF WORK is effective as of October 1, 2002, through June 29, 2004.

2. All other provisions of said CONTRACT, dated September 30, 2002, are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect.
3. In accordance with Palm Beach County Code Chapter 2, Article III, Section 2.51, this FIRST AMENDMENT shall not take effect until executed by the CONTRACTOR and the COUNTY.

IN WITNESS WHEREOF, the Director of Purchasing of Palm Beach County, Florida, has made and executed this FIRST AMENDMENT to the CONTRACT on behalf of the COUNTY and CONTRACTOR has hereunto set its hand the day and year above written.

PALM BEACH COUNTY, FLORIDA FOR ITS
BOARD OF COUNTY COMMISSIONERS
BY KATHLEEN M. SCARLETT
DIRECTOR OF PURCHASING


Kathleen M. Scarlett, Director

CONTRACTOR:

American Management Systems,
Incorporated (AMS)

By:

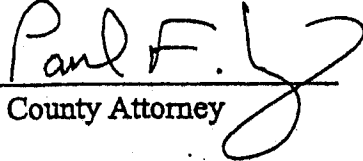

Michael J. Keating, Vice President

WITNESS:


Elizabeth Elliot

(Corporate Seal)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By: 
Department Head

R2004 0840

**SECOND AMENDMENT to
CONTRACT FOR PROFESSIONAL/MAINTENANCE SERVICES AND
SOFTWARE LICENSE AGREEMENT between
PALM BEACH COUNTY, FLORIDA and
AMERICAN MANAGEMENT SYSTEMS, INCORPORATED
(Contract No. R2002 1782)**

MAY 04 2004

THIS SECOND AMENDMENT, is made and entered into this ____ day of _____, 2004, by and between Palm Beach County, a political subdivision of the State of Florida (the "COUNTY") and American Management Systems, Incorporated (the "CONTRACTOR").

WHEREAS, the parties have entered into that certain Contract dated September 30, 2002, hereinafter referred to as the "CONTRACT", under which the CONTRACTOR is to provide professional and maintenance services and a software license for AMS Advantage[®] 3.x; and

WHEREAS, EXHIBIT "C" of the CONTRACT details the MAINTENANCE AGREEMENT for this CONTRACT, including a schedule of annual maintenance fees to be paid to the CONTRACTOR; and

WHEREAS, the COUNTY and the CONTRACTOR have agreed to revise the Annual Maintenance Fee schedule.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

1. EXHIBIT "C" – MAINTENANCE AGREEMENT, SECTION 3 – PAYMENTS TO CONTRACTOR, delete the Annual Maintenance Fee schedule in its entirety and in lieu thereof insert the following schedule:

Time Period	Annual Maintenance Fee		
	Current Fees	Additional Fees	Total Fees
October 1, 2002 to September 30, 2003	\$170,393	\$66,000	\$236,393
October 1, 2003 to September 30, 2004	\$170,393	\$66,000	\$236,393
October 1, 2004 to September 30, 2005			\$342,909
October 1, 2005 to September 30, 2006			\$385,000
October 1, 2006 to September 30, 2007			\$440,000

2. All other provisions of said CONTRACT, dated September 30, 2002, as amended, are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect.

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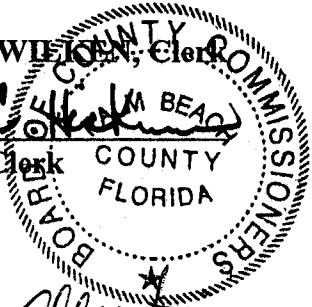
IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida, has made and executed this SECOND AMENDMENT to the CONTRACT on behalf of the COUNTY and the CONTRACTOR has hereunto set its hand the day and year above written.

R2004 0840

ATTEST:

DOROTHY H. WILSON, Clerk

By: Linda Collette
Deputy Clerk



PALM BEACH COUNTY

BOARD OF COUNTY COMMISSIONERS:

By: [Signature]
Karen T. Marcus, Chair

MAY 04 2004

WITNESS:

[Signature]
Elizabeth Elliot

[Signature]
Sharie Kirsch

CONTRACTOR:

AMERICAN MANAGEMENT SYSTEMS,
INCORPORATED

[Signature]
Michael J. Keating, Vice President

(Corporate Seal)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: [Signature]
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By: [Signature]
Department Head

R2004 0841

THIRD AMENDMENT to
CONTRACT FOR PROFESSIONAL/MAINTENANCE SERVICES AND
SOFTWARE LICENSE AGREEMENT between
PALM BEACH COUNTY, FLORIDA and
AMERICAN MANAGEMENT SYSTEMS, INCORPORATED
(Contract No. R2002 1782)

MAY 04 2004

THIS THIRD AMENDMENT, is made and entered into this ____ day of _____, 2004, by and between Palm Beach County, a political subdivision of the State of Florida (the "COUNTY") and American Management Systems, Incorporated (the "CONTRACTOR").

WHEREAS, the parties have entered into that certain Contract dated September 30, 2002, hereinafter referred to as the "CONTRACT", under which the CONTRACTOR is to provide professional and maintenance services and a software license for AMS Advantage[®] 3.x; and

WHEREAS, EXHIBIT "A" of the CONTRACT details the STATEMENT OF WORK for this CONTRACT, including the effective date and schedule of this STATEMENT OF WORK; and

WHEREAS, the STATEMENT OF WORK is effective as of October 1, 2002, through March 31, 2004; and

WHEREAS, the COUNTY and the CONTRACTOR, through the FIRST AMENDMENT to this CONTRACT, agreed to extend the CONTRACT for an additional ninety (90) days, for the period April 1, 2004, through June 29, 2004; and

WHEREAS, the COUNTY and the CONTRACTOR desire to further extend the CONTRACT for the period June 30, 2004 through December 31, 2004; and

WHEREAS, the COUNTY and the CONTRACTOR, through the SECOND AMENDMENT to this CONTRACT, agreed to revise the Annual Maintenance Fee schedule contained in this CONTRACT.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

1. EXHIBIT "A" - STATEMENT OF WORK, Effective Date and Schedule of this STATEMENT OF WORK, as amended, delete the first paragraph in its entirety and in lieu thereof insert the following:

This STATEMENT OF WORK is effective as of October 1, 2002, through December 31, 2004.

2. All other provisions of said CONTRACT, dated September 30, 2002, as amended, are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect.

{Remainder of page intentionally left blank}

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida, has made and executed this THIRD AMENDMENT to the CONTRACT on behalf of the COUNTY and the CONTRACTOR has hereunto set its hand the day and year above written.

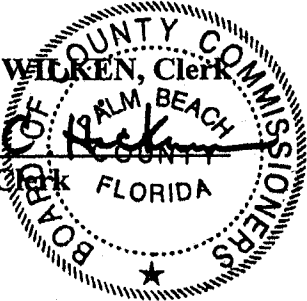
R2004 0841

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:

ATTEST:

DOROTHY H. WILKEN, Clerk

By: Ainda S. Hickman
Deputy Clerk



By: [Signature]
Karen T. Marcus, Chair MAY 04 2004

WITNESS:

Signature

Name (type or print)

Signature

Name (type or print)

CONTRACTOR:

American Management Systems, Incorporated

[Signature]
Signature

Edward Nadworny, Senior Vice President

(Corporate Seal)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: Paul F. [Signature]
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By: Kathy [Signature] for Steve Bordelon
Department Head

R2004 2547.2

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**FOURTH AMENDMENT to
CONTRACT FOR PROFESSIONAL/ MAINTENANCE SERVICES AND
SOFTWARE LICENSE AGREEMENT between
PALM BEACH COUNTY and
AMERICAN MANAGEMENT SYSTEMS, INCORPORATED
(Contract No. R2002 1782)**

THIS FOURTH AMENDMENT is made and entered into this Twenty First day of December, 2004, by and between Palm Beach County, a political subdivision of the State of Florida (the "COUNTY") and American Management Systems, Incorporated (the "CONTRACTOR").

WHEREAS, the parties have entered into that certain Contract dated September 30, 2002, hereinafter referred to as the "CONTRACT", under which the CONTRACTOR is to provide professional and maintenance services and a software license for AMS Advantage[®] 3.x; and

WHEREAS, the CONTRACTOR and the COUNTY require additional time to complete the deliverables specified in the original contract, including vendor self-service and registration functionality;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

1. Exhibit "A" - STATEMENT OF WORK, Section 1, Effective Date and Schedule of this STATEMENT OF WORK, delete the first two paragraphs, as previously amended, in their entirety and in lieu thereof insert the following:

This STATEMENT OF WORK is effective as of October 1, 2002 through December 31, 2006.

2. Exhibit "A" - STATEMENT OF WORK, Section 2.c, Additional Tasks, delete the paragraph in its entirety and in lieu thereof insert the following:

The CONTRACTOR will provide additional professional services to the COUNTY at an additional cost of \$115/hour in so far as these services are necessary for developing, testing, and installing the deliverables described in Section 3 and Attachments C, D and E of this Statement of Work. This rate shall also apply to tasks that may arise as a result of delays requested by the CONTRACTOR. This rate shall not apply to

000092

Page 1 of 3

R2004 2547.2

COUNTY requests for new or additional functionality or enhancements to any of CONTRACTOR's proprietary software products. COUNTY and CONTRACTOR shall negotiate a mutually agreeable rate for tasks that are not within the scope of this agreement.

3. All other provisions of said CONTRACT, as amended, are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect.

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Page 2 of 3

R2004 2347.2

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida, has made and executed this FOURTH AMENDMENT to the CONTRACT on behalf of the COUNTY and the CONTRACTOR has hereunto set its hand the day and year written above.

ATTEST:
DOROTHY H. WILKEN, Clerk

By: _____
Deputy Clerk

WITNESS:

Signature

Name (type or print)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: Paul F. [Signature]
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By: Steve Bordelon
ISS Director

R2004-2547.2 DEC 21 2004
PALM BEACH COUNTY, FLORIDA FOR
ITS
BOARD OF COUNTY COMMISSIONERS
BY KATHLEEN M. SCARLETT
DIRECTOR OF PURCHASING

By: Kathleen M. Scarlett
Kathleen M. Scarlett, Director

CONTRACTOR:
American Management Systems,
Incorporated (AMS)

James E. Holt
Signature

JAMES E HOLT
Name (type or print)

(Corporate Seal)

000094

R2004-2547.2

Statement of Work

is over 50 pages.

Can be viewed

in Administration.